

FOR PUBLICATION
UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

FISHING COMPANY OF ALASKA, INC.,
a Washington corporation;
WILLIAM MCGILL; RICHARD JOSEPH,
Plaintiffs-Appellants,

v.

UNITED STATES OF AMERICA;
DEPARTMENT OF COMMERCE; STUART
E. EIZENSTAT, Ambassador, Acting
Secretary of Commerce in his
official capacity,
Defendants-Appellees.

No. 02-35312

D.C. No.
CV-97-00126-TSZ
OPINION

Appeal from the United States District Court
for the Western District of Washington
Thomas S. Zilly, District Judge, Presiding

Argued and Submitted
June 5, 2003—Seattle, Washington

Filed June 24, 2003

Before: Procter Hug, Jr., Betty B. Fletcher, and
M. Margaret McKeown, Circuit Judges.

Per Curiam Opinion

COUNSEL

John R. Neeleman and Gwendolyn C. Payton, Lane Powell
Spears Lubersky LLP, Seattle, Washington, for the appellants.

Lisa Jones and Michael R. Fisher, U.S. Department of Justice,
Washington, D.C., for the appellees.

OPINION**PER CURIAM:**

The Fishing Company of Alaska, William McGill, and Richard Joseph appeal from the district court's order granting summary judgment for the United States. The appellants challenge the regulations establishing the Vessel Incentive Program ("VIP"), a fishery management plan created by the North Pacific Fishery Management Council ("The Council") as part of its responsibility under the Magnuson-Stevens Fishery Conservation and Management Act, 16 U.S.C. §§ 1801-1883. *See* 16 U.S.C. § 1852. The appellants also challenge the fine imposed by the National Oceanic and Atmospheric Administration for exceeding the standards for halibut bycatch set by the agency under the VIP.

[1] The appellants also contend that the district court should have supplemented the administrative record with statements from a 2001 meeting of the Council discussing the effectiveness of the VIP. Because the appellants failed to make the "strong showing of bad faith or improper behavior" that may justify an inquiry "into the thought processes of administrative decisionmakers," *Public Power Council v. Johnson*, 674 F.2d 791, 795 (9th Cir. 1982), we conclude that the district court did not abuse its discretion in declining to supplement the record.

[2] We affirm the decision of the district court for the reasons well articulated in its opinion, reported at *Fishing Co. of Alaska v. United States*, 195 F. Supp. 2d 1239 (W.D. Wash. 2002).

AFFIRMED.